



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

October 28, 1994

Mr. David Greak
Superintendent of Schools
Cayuga Independent School District
P.O. Box 427
Cayuga, Texas 75832

OR94-710

Dear Mr. Greak:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 29294.

The Cayuga Public Schools ("the school district") received an open records request for "all bills for costs and fees which have been billed to Cayuga I.S.D. by the law firm of Henslee, Ryan and Groce; Laura Groce, Jose Martin, Hans Graff or any other attorney or law firm concerning . . . [two pending lawsuits]." You assert that the school district may withhold the requested information because you "feel releasing the information requested will invade the attorney/client relationship and potentially disclose trial strategy and work product."

Section 552.103(a) applies to information

(1) relating to litigation of a civil or criminal nature or settlement negotiations, to which the state or a political subdivision is or may be a party or to which an officer or employee of the state or a political subdivision, as a consequence of the person's office or employment, is or may be a party; and

(2) that the attorney general or the attorney of the political subdivision has determine should be withheld from public inspection.

To secure the protection of section 552.103(a), a governmental body must demonstrate that requested information "relates" to a pending or reasonably anticipated judicial or quasi-judicial proceeding. Open Records Decision No. 551 (1990). This exception applies to information that discloses a governmental body's "work product" or "trial strategy" during litigation. See Open Records Decision No. 575 (1990) at 2.

Because you have indicated that the litigation referenced in the request is ongoing, we agree that you may withhold information in the fee bills that relates to that litigation. We note that you have marked portions of the detailed descriptions of the fee bills. The school district may withhold these portions from disclosure based on section 552.103(a) of the Government Code. The remainder of the fee bills must be released.

In reaching this conclusion, however, we assume that the opposing party to the pending litigation has not previously had access to the records at issue; absent special circumstances, once information has been obtained by all parties to the litigation, e.g., through discovery or otherwise, no section 552.103(a) interest exists with respect to that information. Open Records Decision Nos. 349, 320 (1982). If the opposing parties in the litigation have seen or had access to any of the information in these records, there would be no justification for now withholding that information from the requestor pursuant to section 552.103(a). We also note that the applicability of section 552.103(a) ends once the litigation has been concluded. Attorney General Opinion MW-575 (1982); Open Records Decision No. 350 (1982).¹

Because case law and prior published open records decisions resolve your request, we are resolving this matter with this informal letter ruling rather than with a published open records decision. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay H. Guajardo
Assistant Attorney General
Open Government Section

KHG/RHS/rho

¹In light of our conclusion under section 552.103(a) of the Government Code, we need not address your concern that the information is protected from disclosure based on the attorney-client privilege. See Gov't Code § 552.107(1); Open Records Decision No. 575 (1990).

Ref.: ID# 29294

Enclosures: Submitted documents

cc: Mr. and Mrs. Stephen A. Winkel
Route 2 Box 2804
Palestine, Texas 75801
(w/o enclosures)